

Deliberation and Inclusion: Framing Online Public Debate to Enlarge Participation. A Theoretical Proposal

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Abstract: Thanks to the work of J. Rawls, J. Cohen and J. Habermas, philosophy and political science have contributed to the elaboration of a political theory of deliberation which considers the relationship of legitimacy between citizens and politics from the perspective of procedure and discourse. These theoretical approaches configure a normative conception of deliberation which hardly engages with reality, and in fine, limits the scope of citizens' participation to mere verbal expression. Starting with a criticism of Habermas's conception of the role of language in the emergence of value preferences, this article aims to show that communication is embedded in a material and cultural framework which shapes—in a non deterministic fashion—one's perception, knowledge, and norms. Therefore, deliberation can be reformulated as an inclusive democratic process in which expression, grounded in its material and technological environment, can be framed by the citizen in the way he chooses.

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I. INTRODUCTION

In recent years there has been a proliferation of new procedures involving “participation” or “deliberation” in many Western democracies, both at the national level (in the form of institutionalised public debates) and at the local level (fostered by decentralized structures of the State). Following this path, private organizations are now experiencing new ways of taking into account the sensitivity of citizens when deciding the company’s position on the development of certain controversial products¹ or industrial plants.² Beyond the merely fashionable aspect of this new “deliberative imperative,” political actors and private companies seem to take these new procedures more seriously than purely instrumental, as they pave the way for new forms of governance in complex matters such as climate change (within the Agenda 21 frame for example),³ or biotechnology.⁴

Several factors have contributed to this wave of procedural innovation, which has taken root in all modern democracies. There is the increasing awareness of technological and environmental hazards and risks; there is the growth of mass protest and opposition to the establishment which has succeeded in blocking certain major political decisions; and more generally, there is the emergence of a new deliberative paradigm which puts forward a new approach to political legitimacy.⁵ The public is thus clamouring for a space of expression

¹ The pharmaceutical industry regularly organizes Citizen Forums in order to enlighten major decisions on the future orientation of medical research. For example, the Forum organized by the GlaxoSmithKline Laboratory in June 2006 examined the theme, “Therapeutical progress, at what price?,” <http://www.glaxosmithkline.fr/gsk/mediasgp/2006/Charte.pdf>. For an overall discussion of the GSK forum, see <http://www.gsk.fr/avenirdelasante/lettre/documents/Lettre8DebatAvenirSante.pdf>.

² In France, citizen information and participation began in 1993 and further developed in 2003, following the explosion of AZF (a chemical plant) in September 2001. As a result, local commissions involving citizen groups have emerged as mediators, monitoring the evolution, extension, and emergency plans of factories.

³ Agenda 21 signifies local programs derived from the “Action 21” plan of action proposed by the Rio World Summit in 1992. They are concerted processes in which local authorities along with citizen and stakeholders define economic and social priorities within a broader environmental and sustainable perspective.

⁴ Loïc Blondiaux and Yves Sintomer, “L’impératif délibératif,” *Politix*, 57 (2002): 17–35.

⁵ Ulrich Beck, *Risk Society: Towards a New Modernity* (London: Sage, 1992); P. Chambat and J. Fourniau, “Débat public et participation démocratique,” *Le débat public: une réforme dans l’État* (Paris: LGDJ, 2001), 9–37; Bernard Manin, “Volonté Générale ou

and for a more direct control over fundamental choices made by governments. In France for instance, progressive institutionalization of the National Commission on Public Debate, from the Barnier law of 1995 to the "Neighbourhood Democracy Act of 2002," consecrates the legitimacy of these demands for citizen involvement at the heart of the decision-making process. Today, above and beyond the many difficulties encountered when putting the deliberative paradigm into practice in democratic societies, decision-making procedures now have to be evaluated in the light of this paradigm which is firmly ensconced as a normative horizon, and maybe also as a Utopian ideal.

In this framework, despite many "family disputes," the core of current theories which confer an essential role to argumentative exchange in the construction of value judgments stem from the approach of Habermas, and are based on the concept of "communicative action."⁶ Even though it has been sharply criticized by many authors who emphasize its limits and its essentially normative character, the Habermas approach to deliberation pervades the majority of experiments.⁷ This theory valorises the rational discursive capacities of citizens and argues for the need to include them more broadly in a process of "collective construction of world-views" to coin the phrase of Callon, Lascoumes, and Barthe.⁸ Thus, virtually all current theories of deliberation consider that argumentative exchange is the only reflexive process which can enable the emergence of public opinion and social norms.⁹

Délibération? Esquisse d'une Théorie de la Délibération Politique," *Le Débat* 33 (1985): 72–93; Bernard Manin, "Délibération et Discussion," *Swiss Political Science Review* 15, no. 3 (2005): 338–68; Joshua Cohen, "Deliberation and Democratic Legitimacy," in *The Good Polity*, ed. A. Hamlin and P. Pettit (Oxford: Basil Blackwell, 1989), 17–34.

⁶ Michael Neblo, "Family Disputes: Diversity in Defining and Measuring Deliberation," *Swiss Political Science Review*, 13(4) (2007): 527–57.

⁷ One could question the important role played here by social scientists who participated in the design and/or the evaluation of these experiments. Our role here has most certainly emphasized this trend and contributed to crystallizing a weak Habermasian vulgate among practitioners of rational discussion and argumentative exchange.

⁸ Michel Callon, Pierre Lascoumes, and Yannick Barthe, *Agir dans un monde incertain* (Paris: Seuil, 2001).

⁹ The core of the Habermasian theory of communicative action states that in modern society, norms are emerging out of discussion and therefore are not imposed by tradition or religious beliefs (at least not totally). Deliberation is nevertheless threatened by systemic trends of the political and economical spheres which impose their own instrumental functioning, out of normative grounds. "The notion of deliberative democracy is rooted in the intuitive ideal of a democratic association in which the

Although in Habermas's work deliberation encompasses two dimensions, one which is procedural and limited to the political public sphere and the other which is embedded in every day discussion, a heavy academic trend has focused on the search for optimal conditions for the organization of debate in order to create the necessary conditions for a "good deliberation" in the political public sphere.¹⁰ As Simone Chambers rightly states, contemporary research on democratic deliberation has therefore somewhat neglected the other aspect of Habermas's theory which analyses the relationship between civil society and the state, and their various mediations.¹¹ This call for procedure rests on the idea that only strict constraints can pave the way for a real deliberation where in real life it is perverted by all sorts of social and communicational distortions. These constraints include the transparency and the public nature of the process; the equality of the different parties participating in the debate; the sincerity of arguments invoked, their moral justification, the manifestation of respect towards participants and reciprocity.¹² All of

justification of the terms and conditions of association proceeds through public reasoning among equal citizens." Cohen, "Deliberation and Democratic Legitimacy," 21 (see n. 5).

¹⁰ "Deliberation is a demanding form of communication, though it grows out of inconspicuous daily routines of asking for and giving reasons. In the course of everyday practices, actors are always already exposed to a space of reasons. They cannot but mutually raise validity claims for their utterances and claim that what they say should be assumed . . . to be true or right or sincere, and at any rate rational." Jürgen Habermas, "Political Communication in Media Society: Does Democracy Still Enjoy an Epistemic Dimension? The Impact of Normative Theory on Empirical Research," *Communication Theory* 16, no. 3 (2006): 414–26.

¹¹ Simone Chambers, "Rhetoric and the Public Sphere: Has Deliberative Democracy Abandoned Mass Democracy?" (forthcoming, 2008).

¹² These are minimal requirements, which are more or less unanimously recognised in the literature on the question. It is clear that these procedural requirements remain quite insufficient to ensure the success of a deliberation. For example, Levine et al. identify other procedural elements: the link between the deliberation and the final decision; an open discussion with the search for some measure of agreement, if not perfect consensus, on points of dispute; a mediation of the exchanges in order to ensure a fair balance between the participants; and public support for the decisions which are taken at the end of the procedure . . . Levine, P., A. Fung, and J. Gastil. "Future Directions for Public Deliberation," *Journal of Public Deliberation* 1, no. 1 (2005): 2. Depending on the authors, the list can be lengthened according to their perception of what constitutes a "fair balance of expression," and the greater or lesser strictness of the link between deliberation and the final decision. It is out of the question, here, to enter into all the details which characterize a deliberative procedure. My point here is to emphasize that the determination of the different dimensions of the deliberation does not stem from the declination of a normative ideal; rather, a deliberation can be evaluated with respect to an empirical definition of an

these derive from the Theory of Communicative Action (TAC) and Habermas's conception of language, as we will see later. Even if it is not necessarily explicitly invoked by the actors who define the procedures in a particular concrete case, the dominant paradigm is thus that of communicative action.

In this text, I wish to examine the following hypothesis. By considering that the source of normative legitimacy resides in communicative action, Habermas's theory grounds the capacity to legitimate value preferences in modern societies in linguistic exchanges, on account of the pragmatic dimension of language. A critical point that this theoretical framework neglects is the co-constitutive relation between language and the medium in which it is inscribed: language is marked, without being determined, by the medium. This theory also neglects the socio-cultural dimension of any media on which communicational activity deploys itself. Thus, the processes whereby the information and communication technologies (ICT) are appropriated by their users take place in a socio-political context, and this context strongly influences the language that is employed and the uses that are made of these technologies, as has been well demonstrated by the sociology of use.¹³ By restricting his analysis of the emergence of norms to the sole dimension of linguistic exchanges,¹⁴ Habermas weakens its contact with real societies and embodied individuals, and ends up conceptualising an abstract essence of an ontological and discursive nature. Because of this, he is unable to conceptualise and take properly into account the new forms of expression related to the new communication technologies which have made their appearance over the course of the last century. The linguistic forms which are elaborated when individuals succeed in appropriating new media are the vehicles of value-laden choices which circulate in the public arena, just as is the case for written and spoken language. The failure to recognise these new forms leads to neglecting the particular values which can be conveyed by a cinema film, a television series, a personal point of view on a blog, or even the narrative construction involved when intervening in a public debate.

"ideal type" in a Weberian exception. In other words, my inclination tends toward a more descriptive and evaluative understanding of deliberation than a substantive one.

¹³ Thierry Vedel, "Sociologie des Innovations Technologiques des Usagers: Introduction a une Socio-politique des Usages," in *Médias et nouvelles technologies pour une socio-politique des usages*, ed. A. Vitalis (Rennes: Editions Apogée, 1994), 13–43.

¹⁴ I will deal later with the small amount of space he offers to non-verbal emotions in the deliberative process.

Although these criticisms have already been noted by some major authors, they have not yet lead to the formulation of an alternative foundation for the theory of deliberation.¹⁵ The point is not to question the paradigm of communicative action as the central process in normative agreement, but to enlarge its scope by taking other modes of expression into consideration as sources of normative production.¹⁶ The aim of the present text is to sketch the outlines of a new approach to the theory of deliberation, based on the theory of “creative action” proposed by H. Joas, which meets this requirement.

Thus, in the first section of this text, I will review the scope of relevance of the theory of communicative action grounded in language. I will then, in the second section, present the main tenets of the theory of creative action, and I will attempt to show that this theory opens the way to a broader approach to the theory of deliberation in section three. In particular, it becomes possible to understand how non-argumentative and/or non-linguistic modes of expression can intervene in the construction of value preferences. This makes it possible to include in deliberative processes those persons who, even though they do not master the forms of expression that are necessary from the point of view of Habermasian theory, are nevertheless well able to express their view of the world through other modalities. This will lead to our conclusion that one of the most important features of Information and Communication Technologies (ICT) in deliberative procedures is that it has the potential to promote new forms of expression grounded in various perceptive and cognitive experiments. I hope to show that values and norms—voiced in different manners by citizens—cannot be detached from a cognitive perception of the world; therefore, deliberative procedures have to be evaluated more broadly than discursive arguments.

¹⁵ Nancy Fraser, “Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy,” in *Habermas and the Public Sphere*, ed. Craig Calhoun (Cambridge, MA: MIT Press, 1992), 109–42; Seyla Benhabib, “Towards a Deliberative Model of Democratic Legitimacy,” in *Democracy and Difference*, ed. S. Benhabib (Princeton: Princeton University Press, 1996), 67–87; Jane Mansbridge, “Everyday Talk in the Deliberative System,” in *Deliberative Politics*, ed. S. Macedo (Oxford: Oxford University Press, 1999), 211–39; Iris Marion Young, “Communication and the Other: Beyond Deliberative Democracy,” in *Democracy and Difference: Contesting the Boundaries of the Political*, ed. S. Benhabib (Princeton: Princeton University Press, 1996), 120–35; Iris Marion Young, *Inclusion and Democracy* (Oxford: Oxford University Press, 2000).

¹⁶ There are, of course, non-deliberative political theories where the legitimacy of a decision is not evaluated with respect to a process of discussion, but rather on the basis of the authorities who take the decision. The present text is not situated in this sort of non-deliberative framework.

II. THE LIMITS OF THE THEORY OF COMMUNICATIVE ACTION GROUNDED IN LANGUAGE

In the most recent version of his theory, Habermas frames the deployment of communicative action by an institutionalisation of the procedures enabling the emergence of normative structures through democratic discussion. "The theory of discussion considers that the success of deliberative politics does not depend on the existence of a group of citizens capable of collective action, but depends rather on the institutionalisation of procedures and conditions which are suitable for communication, and on the combined effects of institutionalised deliberations and public opinions which are formed in an informal way."¹⁷ These "suitable" conditions for communication stem from a conception of deliberation anchored in the pragmatic dimension of language: Habermas considers that the basis of potential validity in inter-subjective relations resides in the epistemic function of discourse. He thus restricts the deployment of communicative action to certain forms of linguistic expression, and thereby excludes the majority of modes of human communication. In this view, rational communication excludes artistic expressions, such as photography, films, cartoons, etc. It also excludes those linguistic exchanges which do not measure up to the requirements for producing a valid norm in the framework of the TAC, such as exchanges which are severely burdened by non-transparent conditions of expression, or submitted to symbolic forms of domination. To be fair, Habermas does consider non-verbal expression of emotions as part of—and even necessary for—deliberation. As Neblo quite convincingly demonstrates, argumentative reason does not stand for emotionless and cold-blooded expression, but rather for a reflexive movement of reason against power and domination.¹⁸ Emotions are intertwined in various ways with argumentation and rhetoric in general, and those are part of discourse ethics.¹⁹

¹⁷ Jürgen Habermas, *Droit et Démocratie Entre Faits et Normes* (Paris: Gallimard, 1996 [1992]), 323.

¹⁸ Michael Neblo, "Family Disputes" (see n. 6); see also Michael Neblo, "Impassioned Democracy: The Role of Emotion in Deliberative Theory." The Democracy Collaborative Affiliates Conference (Washington, D.C., 2003), <http://polisci.osu.edu/faculty/mneblo/papers/EmotComb.pdf>.

¹⁹ For further discussion of Professor Neblo's twelve roles for emotion in Deliberative Theory, see Neblo, "Impassioned Democracy" (see n. 18).

On the basis of a critical reading of the second Wittgenstein, in particular the *linguistic turn* and the emphasis on the pragmatic dimension of speech acts, Habermas concludes that the very structure of language introduces an imminent relation to truth. The illocutionary component of every speech act can serve as the basis for an inter-subjective agreement and thus give rise to the emergence of an agreed norm.²⁰ Therefore, in a deliberative process, a specific inter-subjective relationship occurs, which engages the speaker through performative assertions: its utterance expresses validity claims which place the speaker and the addressee in a common epistemic dynamic. In this frame, every inter-subjective communication seeking consensus contains validity claims. Habermas distinguishes four categories: comprehensibility,²¹ truthfulness,²² truth,²³ and legitimacy.²⁴ The exchange of arguments can result in the appearance of “true” propositions: the obligatory character of the norm derives from the inter-subjective modalities of its production.

²⁰ Despite various interpretations among academics, in speech act theory developed by Austin and Searle, the illocutionary component of language wants to establish a distinction between the propositional content of an utterance and its intentional dimension which can produce effects on the audience. By saying “*It is hot in this room*,” the speaker both makes a statement and asks the addressee to open the window. Austin and speech act theorists usually refers to the “*illocutionary force*” as the property of an utterance to be made with the *intention* to perform a certain illocutionary act. It is this intention that Habermas tries to capture through his analysis of the epistemic dimension of deliberation.

²¹ “The speaker associates each effectual statement with the claim that the symbolical expression employed is liable to be understood in the given situation.” Habermas, *Sociologie et Théorie du Langage* (Paris: Armand Colin, 1995), 76 (author’s translation from French).

²² “All statements which are expressive in the narrow sense (feeling, desires, expressions of a will) imply a claim to sincerity. This claim appears to be false when and if it is discovered that the speaker did not actually have such intentions in the way that he expressed them.” *Ibid.*, 77.

²³ “The observations, the affirmations, the explanations, imply a claim to truth. This claim is not legitimate if the state of affairs that is affirmed does not exist. I call this use of language ‘cognitive.’ In this case, we enter into communication seeking to know something about objective reality.” *Ibid.*

²⁴ “All statements which have a normative orientation (orders, advice, promises, etc.) imply a claim to fairness. This claim is illegitimate when the norms in question cannot be justified. I call this use of language ‘communicative.’ In this case, we mention something which exists in the world, in order to create certain interpersonal relations.” *Ibid.*, 77.

“Communicative reason” emanates from these validity claims and results from the aptitude to language of every human being. The rigid linguistic framework within which Habermas encloses this concept of communicative reason is thus extremely powerful, since it derives from the simple facts of human nature! It is because we are endowed with language that we can engage in rational argument (i.e. discourse in which valid propositions can be affirmed) and by this means reach a normative consensus.

There would probably be no problem with this if such “communicative reason” did not become, in Habermas’s theory of action, the *sole* alternative to instrumental reason. The existence of a “communicative reason” is quite convincing as long as one is engaged in constructing a theory of rationality; the problem comes when Habermas uses this as a basis for a general analysis of society in terms of a binary theory of action. The binary alternative between “communication” and “system” radicalizes the opposition between language, which is an attribute of human beings, and technological devices, which authorize an effective coordination of action in complex societies. There are two serious problems with this analysis.

First, how do we match validity claims and the production of norms with real life experience if this is all a linguistic process? For Habermas, language is not an arbitrary convention but, is the link between reality and sensory experience; it is both complex and indirect, and mediates all contacts with our environment. Thus, although he does not draw all the consequences of the fact, Habermas does admit that the environment has a structuring effect on language for those who interact with the environment. This explains why the rules of grammar cannot be compared to the rules of chess, or the development of vocabulary to the number of pawns on the board. However, although Habermas does take into account the fact that there is something more fundamental in language than in the rules of a game, he stops short and does not go beyond the recognition that language, being a specifically human attribute, cannot be considered as an external artefact. Because of this, Habermas comes to two important conclusions which are, I think, mistaken.

First, although he does recognise that language is influenced by sensory experience, he considers that this influence does not play a structural role because the content of language is provided by the cognitive activity of the individual which, in his approach, does not appear to be linked with perception. At best, one could say that the determinants of language are biological and depend on the degree of development of the vital organs necessary for the appearance of language.

Second, and more profoundly, Habermas disconnects the approach to truth, via the inter-subjective process of the formation of value preferences, from sensory experience of the world. According to Habermas, a human being is first and foremost reflexive, in the sense that his linguistic and cognitive capacities are what enable him to engage in communicative action. Hence, the validity of the norms which are established through communication and which guide action does not depend on the sensory experience of individuals, or only very marginally. To put it rather bluntly, such a human being is disembodied. This is actually quite coherent with Habermas's position that the apprehension of truth cannot be achieved with reference to reality since the latter, being mediated by language, is not directly accessible to the individual.

In opposition to the theories of truth-as-reflection, according to which truth consists of an adequate correspondence between the propositional statement and reality,²⁵ Habermas considers that "truth" is a human construction in which experience is mediated by argument. Thus, by refusing an ontological conception of the world, Habermas goes to the other extreme and makes the mistake of refusing to admit that the cognitive process and knowledge have a sensory dimension. He is therefore obliged to pose two conditions for speech acts giving rise to purportedly true statements to also be rational: they should not enter into contradiction with experience and they should receive the assent of all. Thus, Habermas is obliged to reintroduce, *a minima* and in negative fashion, what he started out by carefully excluding, i.e. the grounding of language in sensory experience. Indeed, if one wants to avoid considering that *any* sort of Utopian consensus could serve as a basis for the deployment of communicative action, speech acts do have to be rooted in sensory experience. However, this grudging reintroduction remains very limited, since it acts merely as a safeguard against the use of counterfactual propositions. This is a far cry from fully taking into account the way in which sensory perception of the world can actually structure discursive arguments.

The second serious problem with Habermas's analysis emerges because of the normative dimension of deliberation. In writings subsequent to *Theory of Communicative Action*, Habermas and many other theoreticians of deliberation address this normative dimension, since all of them recognise the great difficulties involved in actually satisfying the theoretical requirements for rational argument in any

²⁵ For example: the propositional statement "the snow is white" is true if and only if there is some snow, and the snow is white.

given empirical context.²⁶ Mendelberg summarises this line of reasoning:

The research reviewed here sounds a cautionary note about deliberation. When groups engage in discussion, we cannot count on them to generate empathy and diminish narrow self-interest, to afford equal opportunities for participation and influence even to the powerless, to approach the discussion with a mind open to change, and to be influenced not by social pressures, unthinking commitments to social identities, or power, but by the exchange of relevant and sound reasons.²⁷

Contrary to Pellizzoni, who thinks that “this is a weak objection, the theory represents a regulatory ideal, a benchmark against which the existing institutions or the reformist projects can be measured,” one can insist on the strong link between those normative assumptions and the theoretical procedural frame in which they embed deliberative discussions.²⁸ My point here is not to advocate a more substantial approach to deliberation, but to stress that Habermas’s normative proceduralism derives from his philosophy of language as we have seen above.

By subjecting argumentation to normative constraints, the communicational paradigm imposes strict procedural conditions which are necessary for the inter-subjective expression, via speech acts, of requirements for validity. According to the deliberative approach, the institutionalisation of this sort of procedure constitutes a safeguard for a democratic production of norms. “The procedures and the communicative conditions for the democratic formation of public will and opinion are the corner-pieces of the rationalisation by means of discussion of the decisions taken by a government and an Administration bound by laws and by justice.”²⁹ On this basis, a

²⁶ “Even under favourable conditions, no complex society could ever correspond to the model of purely communicative social relations.” Habermas, *Droit et Démocratie Entre Faits et Normes*, 326 (see n. 17).

²⁷ T. Mendelberg, and C. Karpowitz, “How People Deliberate about Justice,” in *Can the People Govern?*, ed. S. Rosenberg (Basingstoke, UK: Palgrave Macmillan, 2007), 108.

²⁸ L. Pellizzoni, “The Myth of the Best Argument: Power, Deliberation and Reason,” *British Journal of Sociology* 52, no. 1 (March 2001): 69.

²⁹ Habermas, *Droit et Démocratie Entre Faits et Normes*, 325 (see n. 17).

difficult question raises its head: what is to be done in those situations, which are frequent indeed, where it is practically impossible—for diverse reasons (lack of competence, absence of organized partners for the discussion, urgency leaving insufficient time to organize a debate, non-acceptance by some or all of the partners of the organization of the discussion, etc.)—to organize a discussion under the demanding conditions necessary for the validity of the deliberation? How is it possible to find a solution to a conflict if, by construction, discussion and linguistic exchanges constitute the only possibility for the creation of norms? Habermas is very clear on this point: in order to avoid violent conflict, “we have no other option than to accept to enter into a practice of agreement where we are not at liberty to determine the procedures and the communicational conditions.”³⁰ This sort of assertion severely limits the relevance of this conception of communicative action. One cannot decently propose, as the sole and unique rational means of solving a conflict, a framework for exchanges which only suits those speakers who master the requisite codes which enable them to impose their point of view. That amounts to systematically favouring the social elites who possess the cultural equipment necessary for this sort of procedure.³¹

This discussion leads us to a final comment. There are two aspects in this normative conception of deliberation. The first one is a normative judgment concerning the superiority of discussion instead of various forms of social domination in order to elaborate legitimate norms in modern societies. The second one is linked to the conditions under which a discussion might produce valid norms. In Habermasian theory these two aspects are inseparable, since the deployment of communicative action necessitates the fulfilment of procedural requirements. My point here is that this link depends on an invalid conception of language and cognition, one which we can abandon without giving up the former sense of normativity; this also has procedural consequences as we shall see in section three. Deliberation as a normative goal certainly has its utility in contemporary democracies, where it can constitute an incentive for politicians and gives us something to strive for as citizens. We may conclude this section by saying that the deliberative paradigm, as it is expressed in terms of procedural requirements and argumentative constraints, depends on theoretical linguistic premises which do not allow us to take into consideration the complexity of interactions

³⁰ Ibid., 336.

³¹ Young, *Inclusion and Democracy* (see n. 15).

which are expressed in the public arena. In order to include other means of expression and other forms of agreement in the process of the emergence of social and political norms, we will therefore need to mobilize other theoretical resources.

III. THE MODEL OF CREATIVE ACTION: REINTRODUCING SENSORY EXPERIENCE INTO THE SPACE OF ACTION

I shall start from the critique of classical models of rational action formulated by H. Joas,³² and then go on to develop the new perspectives offered by the paradigm of “creative action” that he proposes. This new theoretical approach will make it possible to reconcile the normative necessity of an inter-subjective agreement as the source of the legitimacy of value preferences, with a wide variety of forms of expression that citizens of all sorts can employ to put forward their own particular versions of “the truth.” A particularly important point, as we shall see, is that this new paradigm displaces the source of normative creation from the structure of language to the perceptual activity of the individual. To summarize briefly, we can say that by restoring the fundamentally creative dimension of action, Joas reincarnates action in the body of human beings. This makes it possible to understand how the great variety of experiences of the world, which enrich the differences between human beings, can become a precious resource in a deliberative process where everyone should be able to find their place.

A. FOR A CRITIQUE OF CLASSICAL THEORIES OF ACTION

Joas takes as his starting point the observation that while sociological theories of action have not completely ignored the creative dimension of action (for example, by the analysis of charismatic themes), these theories have never managed to propose a satisfactory integration of this dimension in a general theory of action. Creativity has always been the object of a separate analysis, either as a residual category of rational action, or as a category which is quite distinct from all other human activities. Joas, however, maintains that all human action contains a creative aspect, which sociological theories of action do not succeed in taking into account. It is thus not

³² *Communicative Action: Essays on Jürgen Habermas's Theory of Communicative Action*, eds. A. Honneth and H. Joas (Cambridge, Mass.: MIT Press, 1991); *The Creativity of Action* (Chicago, IL: The University of Chicago Press, 1996).

a question of creating a supplementary category in which all "creative" human activities could be regrouped; on the contrary, it is necessary to question the very foundations of all the theories of action which take "rational action" as the basic model for the regulation of human behaviours.

Taking his inspiration from pragmatic philosophy, Joas considers that there are two major problems with taking "rational action" as the starting-point for a theory of action in general. First, taking "rational action" as the starting-point leads directly to creating a counter-category, that of "non-rational action," which is inevitably considered as normatively undesirable. Second, this approach leads to regrouping in the same counter-category a very heterogeneous set of actions which stem from very different motivations, ranging from emotional actions to a considered amoral act. These problems stem from three fundamental postulates of theories of rational action: they presuppose that the subject is able to act in the pursuit of a goal; they assume that the subject has a perfect mastery of his body; and finally they assume that the subject is autonomous with respect to his peers and to his environment. Those who defend the principle of rational action as the normative model for action in general know full well that the overwhelming majority of real actions that can be empirically observed do not fit into the ideal categories of "rational action." This leads to a theoretical mistake: instead of admitting the empirical evidence that the theory of rational action is severely limited, proponents of this theory have criticized human behaviour itself, which they consider as deficient because it is "irrational."

Joas proposes to establish a model of creative action which encompasses rational action and normative action; the extension of their domain of heuristic relevance is determined pragmatically by defining their conditions of application. Joas's method consists of criticizing the three presuppositions of the theory of rational action. Here, I will concentrate on the critique of the first postulate, and the consequences of this for the subject of deliberative politics.

This first postulate proposes a teleological vision of action: people act in pursuit of an explicit goal. This postulate is continually contradicted in daily experience, where means and ends interact in a subtle fashion such that it is highly implausible to suppose that subjects have a perfectly clear view of the goal to be achieved. It is indeed an essential error to consider that the goal of an action can be constituted independently of the action itself. A hypothetical world in which individuals first fix explicit goals, and then accomplish them, presupposes that individuals have adequate knowledge of the environment within which they act, that they set goals compatible with this knowledge, and that they adapt their actions accordingly.

The key point is that in this schema, the teleological interpretation of intentionality is necessarily linked to dissociation between knowledge and action. Now, as Dewey emphasized long ago, this only happens in the rare cases when the actor is perfectly equipped from the start, so that during the course of his action he does not engage in any reflexive activity. Normally, actors adapt both their actions and goals in the light of knowledge gained during the course of the activity itself. It is because Habermas considers that human beings are (almost) entirely constituted in language that they appear strangely disembodied, and the emergence of knowledge through perceptual action is correspondingly underestimated. This conception of action is congruent with recent research in cognitive science, because the constitution of knowledge strongly depends on people's aptitude to perceive the environment through movement and action.³³

In order to reintroduce the embodiment of human action, and thus to reveal its creativity, Joas proposes to envisage perception and knowledge as phases of action, so that action itself can be redirected as a function of the context. This theoretical reversal has a spectacular consequence: our very perception is structured by our activity and our experience as active subjects. "Our perception is not aimed at the reality of the world 'in itself'; the object of our perception is the practical use of that which is perceived in the context of our activity."³⁴ It follows that human action entertains a constitutive relation with the contextual situation: it is for this reason that action is fundamentally creative. Action results from a reflexive judgement which bears on the context and the suitability of the action to be performed, and this action leads to the construction of (relevant) knowledge of the environment. This does not mean that the situation unilaterally determines the action; that would be going to the opposite extreme, and would represent a serious behaviourist reduction. What it does mean is that an individual can only perceive a situation to the extent that he is able to act. Conversely, the nature of the resulting action is guided by the constructed perception of the situation in which the subject finds himself. In other words, the motivations and the plans for action result from a reflexive evaluation of a perceived context; they are not the causes of the action.

³³ E. Hutchins, *Cognition in the Wild* (Cambridge, MA: MIT Press, 1995).

³⁴ H. Joas, *La Créativité de l'agir* (Paris: Editions le Cref, 1992), 169.

B. FORMS OF CREATIVE ACTION

This pragmatic conception of action, which considers that all human action has a creative dimension (this goes even for routine actions which may result), opens up interesting perspectives for a theory of deliberation which aims at understanding the mechanisms for the emergence of a norm, in the framework of a theory of democracy. One of the strong points of Joas's work is to propose a theory of action which encompasses all human action, without imposing a normative dimension. He distinguishes three levels of creativity:

- Primary creativity, which corresponds to "primary" processes such as imagination, the ability to form a representation of a situation, such as play, games, risk, enthusiasm.
- Secondary creativity, which corresponds to the production of novelty in the world, whatever its object, whether it is scientific, technological, or artistic.
- Integrated creativity, which corresponds to taking a reflexive and critical distance with respect to secondary creativity. It "associates an opening in self-expression with a responsibility for self-control."³⁵

Each level of creativity presupposes the preceding level, so that integrated creativity appears as the crowning achievement of a process of self-realisation by appropriating the world, a process which proceeds by the realisation of values and putting them into perspective.

By grounding human action in creativity, Joas articulates the conditions under which a culture and its related norms and values can be deployed, through the manipulation of their environment by human beings. As a source of personal accomplishment and of creation of values, the perceptual activity of the individual is also applicable to the technological artefacts which surround him. In other

³⁵ Ibid., 269.

words, according to the type of perceptive experience a person has with his or her technical and human environment, values will emerge through manipulation, discussion, creation and so on. The fundamental difference between Habermas and Joas lies in this pragmatic construction of norms, which exceeds argumentative exchanges but surely includes these discussions.

The multiplication of sensory stimulations produced by technological devices not only obliges the actor to engage in intense, pre-reflexive activity, but also to engage in intense activity just to apprehend them. The difficulty of this task explains the absence of values and the lack of a coherent vision of the world, which is the lot of the citizens of contemporary societies. In this sense, we must admit that there is some point to the popular saying “things were simpler before.” It is indeed true that the frenetic rhythm of technical, scientific and economic innovation puts a strain on traditional values. Moreover, the impossibility for all citizens to have an equal apprehension of these innovations produces violent discrepancies. This is what Joas calls the “crisis of integrated creativity.”³⁶

IV. CREATIVITY IN THE DELIBERATIVE PROCESS: A PROCESS OF INCLUSION

Starting from these theoretical considerations, how may we reconstruct a more inclusive concept of deliberation freed from the epistemological constraints of the theory of communicative action? It is beyond the ambitions of this article to give a complete answer to this question. I shall merely propose some outlines for conceptualizing the issues.

A. OUTLINES FOR A NEW APPROACH TO DELIBERATION

To the extent that it is no longer a question of setting up the conditions for achieving a rational discursive exchange, the procedural constraints related to these conditions disappear. In return, we now have to define the conditions for the practice and the development of creative action and to specify the procedural devices which are apt to ensure the respect of these conditions. As we have seen, creative action does not necessarily have a normative dimension.³⁷ It is thus

³⁶ Ibid., 268.

³⁷ There is room for discussion here concerning the normative dimension of the “integrated creativity” of Joas. This author considers that the moral indifference of post-modern authors resides in a crisis in the realization of values and in the absence of reflexive

quite possible that a restricted perception of the environment can be translated, expressed and reinforced by the performance of actions which are in contradiction with the values and the world-views shared by a part of the population. To the extent that the action which lies at the source of the emergence of norms and value-preferences cannot be considered *a priori* as “rational” merely because it allows the performance of desirable actions—and vice versa—we have to admit the necessity of regulatory principles of action which are in accordance with the requirements of the concept of deliberative democracy. At this level, we may distinguish two main categories of principles: those which lie beyond action, and those which precede action. Preceding the action, there is the normative determination of the conditions for the emergence of creative action. As a parallel to Lawrence Lessig’s work on cyberspace, the architecture of our environment (its “code”) regulates our capacities for action in the world and hence our capacities for perception.³⁸ We will first examine this latter category of principles.

(1) To what extent does a theory of deliberation require that we pose normative conditions for the realisation of creative action? There can only be deliberation on a condition that the individuals who participate (at least virtually) possess the capacity to freely form their value-preferences on the basis of a free perception of the world. In this sense, their capacity for action and for perception of their environment must be as large as possible: what is at stake is to provide a *normative* guarantee of the conditions for the practice of deliberation. Conversely, the more our capacity for perception is organized, the smaller the latitude for action will be. Creative action is therefore canalized by the limits of the architecture which organizes perception of the environment. The massive intervention of a government in the perception and the understanding of the world by its citizens can be interpreted as a violation of this principle. The examples are legion, and illustrate the immense creativity that a ruling power can deploy when it wishes to ensure the docility of the masses without having overly ostensible recourse to brute force. Controlling the access to the world, by giving only a truncated image of it, is thus one of the great traditions of authoritarian regimes: from the mandates given to court artists charged with recounting history on the

distance which is necessary for creative integration. In the search for self-responsibility there is probably the affirmation of a value preference— unless one interprets (as Joas seems to do) the fact of taking a distance with respect to morality and responsibility, not as moral in itself, but as a creative attitude which allows its perpetual realization.

³⁸ Lawrence Lessig, *Code and Other Laws of Cyberspace* (New York: Basic Books, 1999).

walls of the temple of Luxor, to the control of all Internet connections by North Korea, passing by control of the press³⁹ and censorship, the politics of truncating the span of real experience is a key element in the techniques of propaganda.⁴⁰

It is therefore necessary to organize the structures which constrain action in such a way that action can be deployed in the most constructive way possible, both for the individual and for society. This principle of justice has been well analysed by political philosophy— in particular by the work of J. Rawls and K.O. Appel.⁴¹ When going further into the difficulties involved, we will note here that a first level of normative requirements for a theory of deliberation based on recognition of creative action is that of the transparency of the constraints on action and perception.

Here again, the work of Lawrence Lessig is highly heuristic for modelling the diverse sorts of influence that a political regime can bring to bear on the very architecture of the material environment which is offered to our perceptual activity. Lessig details the four types of constraints which are brought to bear on an individual moving in a given environment:

- The law, which directly regulates behaviours;
- Social norms, which also impose a certain sort of behaviour through social pressure;

³⁹ This control is not necessarily exerted in an overtly authoritarian way. Subtle processes of auto-censorship have been well described by Noam Chomsky with respect to the American press. Cf. N. Chomsky and E. Herman, *Manufacturing Consent: The Political Economy of the Mass Media* (New York: Pantheon Books, 2002), 3.

⁴⁰ I do not wish to enter here into a typology of the modes of propaganda, and its deployment by dictatorial countries. I refer here to a vast literature in political science and communication science which bears on the forms of contemporary propaganda, since C. Hovland studies on WW II. Chomsky and Herman, *Manufacturing Consent: The Political Economy of the Mass Media*, (see n. 39); Charaudeau, et al., *La Télévision et la Guerre* (Brussels: De Boeck Université, 2001). On information in war-time, see also P.M. Taylor, *War and the Media: Propaganda and Persuasion in the Gulf War* (Manchester: Manchester University Press, 1992); P.M. Taylor, "War, Media and Propaganda in the Gulf Wars," (APSA Colloquium, Chicago, Illinois, September 2004). The essential point here is only to show that the absence of access to the real world constitutes a decisive obstacle to the formation of creative action.

⁴¹ J. Rawls, *A Theory of Justice* (Cambridge, MA: Belknap Press of Harvard University Press, 1999 [1971]); J. Rawls, *Political Liberalism. The John Dewey Essays in Philosophy* (New York: Columbia University Press, 1993), 4; K.O. Appel, *Éthique de la Discussion* (Paris: Ed. du Cerf, 1994).

- The market, which acts on prices and/or the availability of products and services, and which thus orients individuals in their choices; and
- The architecture of the environment (this can be a technological architecture, a “code,” or a material configuration, as we have seen above).⁴²

These various constraints limit the capacities of the individual to act and to perceive; they act as prisms for the cognitive capacity of individuals. In Western democracies, the pre-eminent role played by the legal system guarantees, in principle, that the constraints which are exerted on individuals are established in a transparent fashion, following political debate which is relayed by the media in a public arena. We know only too well, of course, that in actual practice this is far from the case; but it remains as a normative ideal which depends on the vigilance of the citizen, and a certain number of constitutional guarantees that we shall not analyse in detail here. An important point for a theory of deliberation, as reconceptualised here, is thus to emphasize that it requires a normative conception of constraints on creative action. This does not mean that these constraints should be abolished (which is impossible), or even that they should be reduced to a minimum. Rather, these constraints should be established in a transparent manner and, as much as possible, they should be reversible. When controlling our perception of the environment by promulgating a rule of law, the institutional organs which participate in the elaboration of the law should commit themselves (this is the normative dimension) to the publicity, transparency and reversibility of the law. This is crucial in order to authorize a reflexive process on the part of the civic actor, because it is only by such a process that the adaptation of value-preferences to perceptual action is made possible.

By making it possible to step back and take a critical view of the constraints on individual action, this normative requirement ensures the possibility for the “integrated creativity” of Joas to emerge: it makes it possible to become critically aware of the relationship between a normative structure and the architecture of the environment in which a community evolves. This explains, for example, the importance of public discussions concerning the text of the legislation which adapts the copyright laws to widespread piracy

⁴² Lessig, *Code and Other Laws of Cyberspace*, 85 (see n. 38).

on the Web.⁴³ This legislation contains a series of measures which directly influence the market of artistic creation, and hence the possibility for artists to earn a living by their production, and more fundamentally to express themselves. The vitality of a society finds an important outlet in its artistic creativity, and so a modification of the internal architecture of copyright has important repercussions beyond the determination of their modes of remuneration, and comes to confront traditional values of our society which posit the freedom of artistic creation.

(2) Once the principle that the constraints on action should be transparent is established, the modalities whereby creative action can be included in the deliberative process still need to be established, with consideration to the emergence of value preferences. What is at stake is to construct an open concept of deliberative democracy which recognises the interest of creative expression, all the while canalizing such expression towards the justification of value preferences, under conditions which should themselves be defined as a function of value preferences. In other words, in this new context, the deliberative process recognises on the one hand the existence of diverse perceptual modalities and actions which are not to be limited to purely argumentative exchanges and, on the other hand, the deliberative process which has to structure itself in such a way as to integrate such modalities according to a principle of inclusion and which contributes to its legitimacy. In this sense, even when it is reconceptualised on a renewed theoretical basis, deliberation remains a procedural notion to the extent that the satisfactions of democratic requirements which are embodied in the process of deliberation appear to need a certain form of organization.

According to our approach, the normative dimension of the concept of deliberation can quite well be restricted to its democratic and inclusive goal as it serves a democratic purpose. Thus, the procedural design does not have to meet the right conditions for validity claims expression, but should guarantee a wide range of expression confronting value preferences. A couple of consequences need to be stressed here. First, there is no such thing as one best procedural arrangement. In general, the normative dimension of the whole process rests on its democratic value, depending on local contexts and on the level of the normative conflicts at stake. Creativity in the ability to stimulate grass-root communication should

⁴³ I am referring here to the DADVSI Act (Law on copyrights and related rights in the information society) passed in 2006 in France.

(and often is, locally) be encouraged as long as it serves the objective to express value preferences.⁴⁴

Second, even though these democratic goals are only partially reached because of local empirical conditions and political contexts, the normative dimension of deliberation as we understand it, will only affect the democratic legitimacy of its outcomes, not the aptitude of individuals to express value preferences or the ability of shared norms to emerge out of inter-subjective communication. Defining deliberation should not then consist of exhaustively defining all the procedural conditions which are necessary for the deployment of communicative reason, whose content varies according to conception that different authors may have of ideal role taking and the emergence of norms through discussion. Rather, we can very easily define deliberation as the exchange of value preferences through communication, be it mediated or face to face. The definition doesn't need to be grounded on linguistic arguments and can take the form of any semiotic content which reveals its normative claim.

In this theoretical perspective there are two levels of analysis of a deliberative process: the sociological one (how does this arrangement allow people to express their value preferences?) and the normative one (does this arrangement correspond to our ideal type—in the Weberian sense—of deliberation in contemporary democracies?). This allows us to break the link between the local conditions of realisation of a procedure, which can be more or less deliberative, and its normative evaluation, which apprehends the legitimacy of its outcomes in a democratic context. In this way, an appreciation of the quality of a deliberation is rooted in the real world, taking into consideration the concrete circumstances in which deliberation takes place. The normative dimension of the analysis can even be neglected by the researcher without introducing a theoretical and logical bias in the study.

It follows that the different procedural requirements that we have already encountered, such as the transparency of the deliberative organization and the inclusion of the concerned public, cannot constitute a set of criteria with a view to defining an "ideal deliberative procedure" (that cannot exist anyway). Rather, these procedural

⁴⁴ An example of this local debate on urban planning in France can be seen when a local association (*les arpenteurs*— "the pacers") proposes a walk of citizens through the concerned neighbourhood with maps and drawings to help them concretely realize the various aspects of the projects. Citizens can then take pictures and propose their vision of the future site.

*desiderata*⁴⁵ constitute many clues that can be taken into consideration when evaluating the greater or lesser degree of deliberation. These procedural requirements can also be used to evaluate its adequacy to a democratic normative standard, but this constitutes another type of evaluation.

The main difference with the approach of Habermas, from that of Joas, is that procedural rules are no longer subordinate to the linguistic nature of rational action: the normative conception of deliberation, which depends on the realisation of ideal conditions of communication so that communicational action can be deployed, no longer holds sway. This is probably one of the greatest advantages of this reformulation of the theory of action: the procedural rules of deliberation can no longer be a question of an “ideal speech situation” which leads to a procedural formalism with the awkward property of systematically excluding a certain category of the population. The regulation of communication is no longer limited to argumentative exchanges, but (as proposed by I.M. Young) can perfectly well include more narrative forms, such as the account of an experience, rhetorical figures of speech such as metaphor or hyperbole, or yet again the expression of motivations. (Young calls these “greetings,” i.e. the recognition of the subjective motivations of the speaker.) In addition, it becomes possible to open the procedure to new forms of participation which result from an appropriation of new technologies, and of the Internet in particular (through the use of forums, blogs, chats, and other forms of expression via the ICT)– all the forms of individual expression which result from the deployment of creative action in a given environment and which give rise to modes of expression that are not yet explicitly conceptualised. Concretely, this could lead (for example) to the integration in a public debate of more “artistic” elements (films, a photographic exhibition, a television series, or songs) as elements of an argumentation (for example, a Ken Loach film on British violence in Northern Ireland⁴⁶ or a de Palma film/documentary on the war in Iraq,⁴⁷ etc.).

⁴⁵ Latin word meaning, “something you want.”

⁴⁶ *The Wind that Shakes the Barley* (2006).

⁴⁷ *Redacted* (2008).

B. AN APPROACH TO DELIBERATION OPENED TO EMERGING POLITICAL PRACTICES

An important consequence of a non-normative approach to deliberation is, at an empirical level, its heuristic utility. In this new approach, the deliberative ideal no longer constitutes an obstacle to the recognition of procedures which are authentically deliberative, but which do not fully meet the requirements imposed by a normative perspective, which are by definition impossible to achieve. Applying this standard, social scientists will be confronted with the task of describing all the forms of communication which can be observed during the course of a debate, the value-judgements that they reveal, and their evolution during the course of the resulting discussions. The deliberation will also be evaluated with respect to its inclusive dimension,⁴⁸ and the transparency of its rules of functioning. Thus, a process can be evaluated as more or less deliberative, depending on the way that it satisfies compromises or negotiates with its different components so as to achieve the richest communication possible between the participants. The research question should then be to analyse the multiple exchanges between the participants in order to measure the inclusive and reflexive potential of the process. On an empirical level, it is the totality of all the modes of communication that can be considered as contributing to the deliberation. This conceptualisation of deliberation constitutes a superb opening to the imagination and the creativity that individuals are capable of manifesting when they are invited to express the values of their points of view.

On the basis of these theoretical considerations, an important characteristic of deliberative procedures, as newly defined, must be mentioned. It follows from what we have said that deliberative processes, thanks to their dimensions of real-time learning and the confrontation with world-views quite different from those familiar to most participants in the debate, offer new opportunities for action and for the deployment of creative action. These new opportunities are what Joas notes when he insists on the current potential for developing creative action:

The concept of participation covers today what remains,
after the tendencies to privatisation, of a desire to live one's

⁴⁸ Not in a normative perspective but a sociological one: are the individuals participating in the process able to express themselves?

sociality directly and publicly, a desire to carry out a creative and effective activity in the bosom of the community. By participating in politico-cultural organisations and institutions, as well as in the social movements which constitute the ever-shifting basis of democracy, an individual can ally in indissoluble fashion the rational pursuit of his interest, the moral obligation, and his creative flowering.⁴⁹

The processes of deliberation have a link—sometimes more or less slender—with the processes of decision.⁵⁰ To the extent that this link is real, deliberation constitutes an opportunity to take responsibility at a collective level, and is thus a practical form of integrated creativity. However, as Joas takes care to point out, it is important that deliberation should not merely correspond “to simple interested motives, or to a normative injunction having no relation to personal accomplishment in personal life. Conversely, there would be no point in trying to instrumentalize participation with a view to personal accomplishment interpreted in a purely individual sense Participation takes place in an equilibrium that each person must discover for himself, between different modes of action.”⁵¹ This conception of deliberation proposes to view the deployment and the

⁴⁹ Joas, *La Créativité de l'agir*, 269 (see n. 34).

⁵⁰ The question of the relation between the deliberative process and the final decision remains one of the weak points of current public debates. Apart from institutional instances of deliberation (as in parliamentary assemblies) where the exchanges are organized with a view to actually making a decision, it is very rare that a political decision is constrained by the results of the process. In the majority of cases, the only constraint on the political sphere is a sort of moral obligation. This is the case in the procedures organized in the framework of the National Commission on Public Debate (Commission Nationale du Débat public) in France. In Great Britain, the “Code of Consultation” obliges administrations who wish to propose reforms to first submit these proposals to public debate via a procedure which was itself the object of a debate two years ago. These debates are available online in a space dedicated to public political debates called “Citizenspace.” Here again, the only obligation concerns the organization of the debate, the publication of minutes, and an explicit motivation of the decision taken. The decision itself is not obliged to follow the conclusions of the debate. In spite of these limitations, one should not underestimate the weight of this moral obligation for elected politicians: it does impose at least a duty to justify the decision which, in light of the freedom of appreciation of the politician, does engage his responsibility. One can therefore understand that the deliberative process is less contradictory with the notion of a representative democracy, than with the notion of a Republic which, being the embodiment of the Nation, is the sole depository of the capacity to deliberate.

⁵¹ Joas, *La Créativité de l'agir*, 269 (see n. 34).

development of the new participative procedures as a reaction to the crisis of integrated creativity that we have mentioned previously. More than a response to the crisis of legitimacy in modern society, deliberation offers a way out for a re-appropriation of the world and the realisation of human values, which the contemporary development of science and technology no longer allows. The conditions for setting up the procedures of deliberation and the commitment of individuals to the process therefore correspond to the double requirement of ensuring the legitimacy of the decisional process with respect to the democratic ideal while giving the citizen the possibility of “getting a grasp” on his environment in order to reset his value preferences.⁵²

According to its architecture, a given procedure will provide certain constraints for the deployment of creative action, but also many diversified opportunities (if allowed by the process) for self-expression. In this sense, the deliberative procedure constitutes an “environment” for participants who can draw from it the experience necessary for knowledge, by their movements in a codified universe. Deliberation organizes the collective integration of action by a varied and appropriate communication between its members, so that normative structures can emerge, structures that are necessary for the subsequent elaboration of pre-reflexive elements of action. The definition of the architecture or the “code” of the procedure is thus a crucial element that determines the quality of a public debate. The more the architecture is open and flexible, the easier it will be to integrate new actors, each of whom brings his own perceptual relation and cognitive framework to the environment. It is indeed on the basis of this observation that Callon, Lascoumes, and Barthe conceive their “hybrid forum” which is composed of participants whose sensitivities and personal trajectories are very heterogeneous and which accepts “world views” which may be antagonistic.⁵³ Such world-views correspond to very different apprehensions of reality, based on differences in personal experience which translate into incompatibilities in value preferences. In this case, the formal structure of the argumentation is less important than an authentic expression of its content.

⁵² F. Chateauraynaud, “Invention argumentative et débat public regard sociologique sur l’origine des bons arguments,” *Cahiers d’économie politique*, 47 (2004), http://prospero.dyndns.org:9673/prospero/acces_public/06_association_doxa/inventions_argumentatives.

⁵³ Callon, et al., *Agir dans un monde incertain* (see n. 8).

This conception of deliberation operates as a transition between two sociological paradigms: from systemics to complexity. The Habermasian version of deliberation is actually a hybrid concept which combines systemic demands (from the political system for example) with the complex formulation of value judgements in a democratic political context. Our theoretical proposal situates itself in the paradigms of complexity in which deliberation serves both as a normative ideal for democratic legitimacy and as a reflexive instance for the sharing of world-view and experience in a risk society.⁵⁴ The consequences of this shift are important. They impact the objectives and the framing of deliberative procedures, and they also explain the focus on inclusion in the process: in a complex society, viewpoints linked to the specific situations of participants in their environment should be as diverse as possible if one wants the deliberation to be rich. Moreover, it is no longer possible to postulate a simple, direct link between argumentation and truth, since "truth" is now situated, in the cognitive sense of the term. Therefore, communication devices and procedural methods constitute the first reflexive step for deliberative processes in order to cover all the dimensions and viewpoints that should be taken into account in a given debate. These are closing remarks and should of course be pursued and developed further in another paper.

V. CONCLUSION

In the course of this rough sketch of a concept of deliberation that is not procedurally normative (i.e. is not presented as an "ideal" procedure). I have sought a way out of the aporia that results from the discursive foundations of Habermas's "communicative action." The aporia lies in the fact that taken to its logical conclusion, the concept of communicative action ends up excluding ordinary citizens from the process of deliberation at the very same time that the democratic legitimacy of the procedure depends on their presence.

In its new interpretation, a form of deliberation enlarged to include all forms of action becomes meaningful in a democratic context, where the constraints on individual action are established in a manner that is transparent and itself democratic. Such a context is a normative ideal; however, in practice, it inevitably suffers from substantial limitations. Constant vigilance on the part of citizens is necessary in order to be aware of the constraints on action; this

⁵⁴ Beck, *Risk Society: Towards a New Modernity* (see n. 5).

vigilance can be practiced, in particular, by participation in deliberative procedures.

The heuristic interest of this approach is that it makes it possible to identify new ways in which value preferences can emerge and find expression. For example, this concept of deliberation provides a framework for analysing the emerging communication formats which occur via new media of communication, and for identifying the creative dimension of these new forms of justification.

The political practices which are constituted using these new media, involving the elaboration of particular forms of expression, can thus find their place in a concept of deliberation which seeks to profit from the modes of appropriation of new media by diverse sections of the population in order to enlarge the framework of exchanges with a view to construct common world-views. In this sense, deliberation does indeed constitute a process whereby the political dimension is "invented." In other words, if political practices (taken in a wide sense so as to include the manipulation of devices, the "tinkering" of technologies, and the confrontation with a wide variety of modalities) are indeed constitutive of our political culture, then it becomes clear that a purely linguistic analysis amounts to a very severe restriction of the political process. It is reduced to a very specific sort of political culture: the institutional arrangements and procedures of the republican elite. It follows that by raising the theory of communicative action to the status of a theory of society as a whole, Habermas contributes (even if this is not his intention) to the conservatism of the dominant political culture, since he deprives this culture of the means of evolving. In his formulation, communicative action restricts the emergence of values to the traditional public arenas derived from the *salons* of the Eighteenth Century bourgeoisie. This concept is thus a fair target for the many criticisms it has received, all of which emphasize that whatever its intentions, in practice the procedural theory of communicative action is highly conservative. There is a reason for this: the linguistic forms which were elaborated for the construction of values arose in a very precise context, those of the procedures and techniques of a patriarchal, republican, conservative society.

In this text, I have only sketched out some of the premises for a veritable conceptualisation of an alternative. There are many points which require much deeper analysis. One of them is the institutionalisation of "opened" deliberative practices which should be analysed locally and further experimented. For instance, in France, the National Commission of Public Debate is engaged in reform to revisit mediations between citizens and political/industrial actors involved in debatable programs or projects. The Commission

envisions opening their debate to multimodal channels of expression including online and more artistic channels. The extent to which individuals mobilize technological devices in deliberative processes when they are allowed to and what type of argumentation they develop through them should be further observed and analysed. Are there specific strategies linked to the format of expression in order to be heard? Can we observe a specialization from certain type of population according to the communication medium they use? These questions rest at the core of a current research project which I hope to present soon.

Other theoretical questions also remain, three of which are particularly salient. First, the link between individual creativity and the public expression of norms has to be specified, since our approach renders the public sphere wide open to private considerations. Second, the measure of the efficiency of the deliberation: this is strongly linked with our theoretical model and has to be further developed. Third, what are the limits of such procedures and how does deliberation apply to the whole range of social and political topics in a complex society? Such questions open up a wide research program in the deliberative field.

